

Original

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

RECEIVED

SEP 18 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)	FCC 95-381
)	
Amendment of Part 90 of the)	PR Docket No. 89-552
Commission's Rules to Provide)	
for the Use of the 220-222 MHz))	
Band by the Private Land)	
Mobile Radio Service)	
)	
Implementation of Sections)	GN Docket No. <u>93-252</u>
3(n) and 332 of the Communi-)	
cations Act)	
)	
Regulatory Treatment of)	
Mobile Services)	DOCKET FILE COPY ORIGINAL

REPLY COMMENTS

Hill & Welch hereby reply to comments raised in the Fourth Notice of Proposed Rulemaking, released August 29, 1995. In reply thereto, the following is respectfully submitted:

1) Hill & Welch is a communications law firm with clients who possess numerous Commission radio licenses issued under Parts 21, 22, 73, and 90, including 220 MHz. Moreover, members of Hill & Welch's client base are interested in applying for 220 MHz authorizations at such time as such spectrum becomes available. Thus, our firm has an interest in the outcome of the referenced rulemaking.

2) Hill & Welch agree with the commenters who indicate that modification rules should not be burdensome on the licensee community. See e.g. Sea, Inc. at 3. We also agree with comments that the Commission's service/interference area analysis are unduly

No. of Copies rec'd 049
List ABCDE

restrictive. See e.g. Personal Communications Industry Association, at 4. However, we disagree with some conclusions drawn by these commenting parties.

3) The Commission's goal should be to maximize 220 MHz spectrum to frequency reuse. The bulk of the comments filed in this proceeding would unduly restrict frequency reuse thereby hurting the economy and consumers.

4) Maximizing 220 MHz spectrum use will generate more service providers resulting in lower prices to subscribers thereby generating greater consumer demand. Increased demand will cause a rise in base station and subscriber equipment sales. Increased production would bring economies of scale to manufacturers thereby reducing manufacturing costs and stimulating demand even further. Finally, increased production and service offerings will stimulate employment in these industries.

5) We agree with Incom Communications Corporation's (Incom) comments that the contour protection rules proposed in the Fourth NPRM are unduly restrictive. Comments, pp. 4-5. Incom proposes that the Commission adopt the cellular radio industry's 32 dbu contour overlap analysis to determine station configuration.

6) Regardless of whether the Commission adopts a 38 dbu standard, or a 32 dbu standard, we agree with Incom's implicit assumption that the underlying field strength analysis should be FCC Report R-6406, "Technical Factors Affecting the Assignment of Facilities in the Domestic Public Land Mobile Radio Service," by Roger B. Carey. Prior to January 2, 1995 the Carey Study was used

in Part 22 to determine co-channel base station interference and service contours for stations providing, or applications proposing, service to mobile units. See e.g. §22.15(b)(2) as it existed prior to January 2, 1995.

7) The Commission inappropriately indicates in footnote 17 of the Fourth NPRM that channel separations should be determined by FCC Report R-6602 contained in §73.699.¹ The R-6602 curves are used to determine service issues relating to high powered TV transmitters providing service to fixed receivers. Thus, the Commission's proposal exaggerates the service areas of the 220 MHz stations.

8) The Carey Study, on the other hand, was developed, in part, to determine service levels to mobile units. The Commission has not explained why, especially in the face of regulatory parity between Part 22 and Part 90 service providers, it proposes to apply an exaggerated service area to 220 MHz service providers vis-a-vis Part 22 service providers. We do not think there is any rational basis for a distinction. The Commission should treat Part 90 service providers on terms no more favorable than those applied to Part 22 licensees. Consequently, the assumptions contained in the Carey analysis should be applied to 220 MHz licensing issues.


9) We note that since January 2, 1995, Part 22 service area and interference calculations have been determined through the use

¹ To our knowledge, this was the first instance in which the Commission has publicly indicated its intent to use R-6602 to determine interference between 220 MHz stations and proposals.

of formula which very closely approximate the various service/interference contours previously arrived at using field strength charts. See §§22.567(c), (d), (e), (f), (g); §22.911(a).

10) The Commission should develop similar formula for 220 MHz proposals and operations. As the Commission noted in adopting the Part 22 service/interference formula, formula are preferred because they are subject to certain verification. Reading a field strength chart relies upon visual acuity and guess work as to where particular lines and curves bisect and necessarily engenders disputes as to who's reading is more accurate. Adoption of a formulaic approach alleviates Sea, Inc.'s concern at page 3 of its Comments that a contour approach is complicated, expensive, and time consuming.

Respectfully submitted,



Timothy E. Welch

Hill & Welch
Suite #113
1330 New Hampshire Ave., N.W.
Washington, D.C. 20036
(202) 775-0070
September 18, 1995